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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/650,628	08/28/2003	Jim Kiefer	RAN01 P-309A	7509
28101	7590	02/22/2005	EXAMINER	
VAN DYKE, GARDNER, LINN AND BURKHART, LLP 2851 CHARLEVOIX DRIVE, S.E. P.O. BOX 888695 GRAND RAPIDS, MI 49588-8695			KYLE, MICHAEL J	
			ART UNIT	PAPER NUMBER
			3676	

DATE MAILED: 02/22/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/650,628

Applicant(s)

KIEFER ET AL.

Examiner

Michael J Kyle

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-38 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-38 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>3/12/04</u> . | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Claim Objections

1. Claim 14 is objected to because of the limitation "said first portion" (lines 1 and 2). Examiner believes this should be changed to --a first portion--, as no first portion has been previously recited in the claims.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-9, 12-16, 22, 23 and 26-38 are rejected under 35 U.S.C. 102(b) as being anticipated by Wood, Jr. et al ("Wood", U.S. Patent No. 5,611,114).
4. With respect to claims 1, 8, 9, 13, and 16, Wood discloses an automobile hinge comprising a panel attachment plate (12), a body attachment plate (14) and an intermediate member (16) pivotably attached to the body attachment plate (via 24) and panel attachment plate (via 20). The intermediate member includes opposing sidewalls and a center flange (see figure 1). The sidewalls engage the body attachment plate, with the center flange being spaced from the body attachment plate, in a first position (see figure 1). Additionally, Wood discloses the intermediate member (16) to comprise at least one panel stop member configured to engage a stop portion of the panel attachment plate to limit pivotal movement (column 4, lines 25-27, or 60d in figure 5). Examiner notes that the portion contacted by the panel stop member is

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considered to be the “stop portion”. The panel stop member and stop portion are adapted to limit pivotal movement of the panel attachment plate at different positions (column 4, lines 23-25, “selection of the size of the stop member”).

5. Examiner notes the limitation of “being cut” is a product-by-process limitation in a product claim, and is given little patentable weight. As long as the prior art meets the structural limitations of the claim, and is *capable* of being made by the same process, then the prior art is considered to read on the claim. In the case, the stop (16c, or similar stop engaging the panel attachment plate) is capable of being cut during manufacturing of the hinge. Further, Wood discloses the intermediate member (“support member”) can be prepared by “machining” (column 2, lines 23-27). Examiner asserts that “machining” includes cutting.

6. With respect to claims 2, 3, and 14-16, Wood discloses the intermediate member to comprise first and second portions (16a and 16b) at a relative angle to one another. The intermediate member (16) is pivotably attached to the body attachment plate (14) at a junction of the first and second portions (16a, 16b). The panel attachment plate (12) is pivotably attached to the intermediate member at an end of the second portion (16a).

7. With respect to claims 4 and 5, Wood discloses the intermediate member to include a panel stop member at an end that is configured to engage a portion of the panel attachment member (column 4, lines 19-27, specifically, lines 25-27, also see embodiment shown in figure 5, reference 60d). The intermediate member (16) also includes a body stop plate member (16c) that engages the body attachment plate to limit pivotal movement.

8. With respect to claims 6, 7, and 22, Wood discloses the body plate stop member (16c) to comprise at least one flange (16c) protruding from the first portion (16a) of the intermediate

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member (16) and engaging a corresponding flange on the body attachment plate. The body attachment plate comprises at least one generally raised flange (22a, 22b) extending along an edge portion of the body attachment plate and transverse to the edge portion to define a hinge portion (which receives pin 24).

9. With respect to claim 12, Wood discloses the center flange of the intermediate portion (16) to include a fastener portion (see figure 1, on 16b), and is securable to the body attachment plate with a fastener.

10. With respect to claim 23, Wood discloses a method of making an automobile hinge comprising the steps of providing a panel attachment plate (12), providing a body attachment plate (14) and providing an intermediate member (16). The intermediate member is pivotably attached to the panel attachment plate (12). Additionally, Wood discloses trimming a stop portion of the intermediate member (column 4, lines 25-27). The stop limits the range of pivotal movement of the panel attachment plate with respect to the intermediate member. A degree of trimming adapts the stop to define the stopping position of the panel attachment plate with respect to the intermediate member.

11. It is noted that Wood discloses the intermediate member ("support member") is formed of a metal body and may be prepared by "machining" (column 2, lines 23-27). Wood also states, "By selection of the size of stop member 16c...the degree of restriction may be controlled" (column 4, lines 23-25, Wood also says the feature 16c may be incorporated into the hinge with regard to the first plate, or panel attachment plate, 12), which shows the size of the stop may be adjusted depending on the application. Examiner also cites the embodiment shown in figure 5,

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specifically feature 60d, to show this “stop”. Examiner notes that “machining” includes processes such as milling, cutting, and shaping. Examiner asserts that these methods will “trim” an object. Therefore, “trimming” is encompassed by Wood’s disclosure of “machining”.

12. With respect to claim 26, Wood discloses the hinge is attached to a vehicle body and a vehicle gate.

13. With respect to claims 27 and 28, Wood discloses trimming the stop portion to include trimming a greater portion from the intermediate member to create a greater range of motion, and trimming a lesser portion from the intermediate member to create a lesser range of motion (column 4, lines 23-25).

14. With respect to claim 29, Wood discloses an automobile hinge comprising a panel attachment plate (12), an intermediate member (16) with first and second legs (16a, 16b), and a body attachment plate (14) with a plate portion (lower surface of 14). The body attachment portion includes at least one generally raised flange (raised part of 14, with surface 14a, 22a, 22b) with a first flange portion (raised part of 14) extending partially along an edge portion of the plate portion, and a second flange portion (22a, 22b) extending at angle to the first flange portion to define a hinge portion. The at least one raised flange provides structural support to the plate portion. The intermediate member is pivotably attached to the body attachment plate (via 24) at the hinge portion via a pivot member (24) extending through the second flange portion.

15. With respect to claims 30 and 31, the second flange portion (22a, 22b) comprises spaced apart and opposed second flange portions (22a, 22b) the cooperatively define the hinge portion. The at least one raised flange comprises two flanges (on either side of intermediate member 16)

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along opposite portions of the edge portion, each of the flanges extending generally transverse to the edge portion and comprising a respective one of the spaced apart and opposed second flange portion to cooperatively define the hinge portion.

16. With respect to claims 32 and 33, Wood discloses the intermediate member to include at least one stop (16c), where the at least one raised flange of the body attachment plate includes a raised projection extending therefrom for engaging the stop to limit pivotal movement of the intermediate member (figure 3 shows the raised portion on 14, stop 16c contacts a projection of this raised portion, on the top part of 16c). The first and second leg portions (16a, 16b) comprise opposite sidewalls and a center flange (see figure 1).

17. With respect to claims 34 and 35, Wood discloses the sidewalls of the second leg portion engage the plate portion of the body attachment plate (14) with the center flange being spaced from the plate portion, in a first position. The second leg portion (16b) is positioned along the plate portion. The intermediate member is securable in the first position.

18. With respect to claims 36 and 37, Wood discloses a fastener portion (figure 1 on 16b) on the second leg extending toward the plate portion, where fastener can secure the intermediate member to the plate portion. The first leg portion of the intermediate member includes at least one stop adapted to limit the range of pivotal movement of the panel attachment plate with respect to the intermediate member (column 4, lines 25-27, or figure 5, 60d)

19. With respect to claim 38, Wood discloses the at least one stop is adapted to limit the pivotal movement of the panel attachment plate at different positions (column 4, lines 23-27). Examiner notes the limitation of “being cut” is a product-by-process limitation, as previously discussed in this Office Action.

Claim Rejections - 35 USC § 103

20. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

21. Claims 10, 11, and 17-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wood. With respect to claims 10 and 17, Wood discloses a panel stop member (column 4, lines 23-27, or 60d). However, Wood does not disclose there to be a pair of panel stop members. However, replacing a single piece with multiple parts is considered to be within the level of one having ordinary skill in the art, as no new or unexpected result is produced from such a modification. It would have been obvious to one having ordinary skill in the art at the time of the invention to modify Wood, so that there is a pair of panel stop members, as no new or unexpected result is produced from this modification.

22. With respect to claim 11, Wood discloses the stop members are adaptable to limit pivotable movement of the panel attachment plate at different positions (column 4, lines 23-27). Examiner notes that “being cut” is a product-by-process limitation, and has already been addressed in this Office Action.

23. With respect to claims 18 and 19, Wood discloses the sidewalls of the first portion (16b) engage the body attachment plate with the center flange being space from the body attachment plate when the intermediate member is pivoted toward a first position. The first portion (16b)

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includes a fastener portion (see figure 1) extending toward the body attachment plate, so that the intermediate member is securable to the body attachment plate with a fastener.

24. With respect to claims 20 and 21, Wood discloses the intermediate member to include a body plate stop member (16c) that engages a portion of the body attachment plate to limit pivotal movement. The body plate stop member comprises at least one flange (16c).

25. Claim 24 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wood in view of Grass (U.S. Patent No. 4,400,848). Wood discloses the intermediate member (16) to be provided by powder metallurgy, casting, machining, extrusion, or the like (column 2, lines 25-27). The intermediate member is metal. Wood does not expressly disclose the intermediate member to be provided by stamping sheet metal.

26. Grass teaches a hinge arrangement that includes a plate 17 that is produced by casting metal or stamping sheet metal (column 4, lines 52-54). It is seen then, that casting and stamping are equivalent processes in the art to arrive at the same final product. It would have been obvious to one having ordinary skill in the art at the time of the invention to provide the intermediate member of Wood by stamping, or casting, as these processes are equivalent in the art and interchangeable. Either process may be used to create the same final product.

27. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wood in view of Bobbowski et al ("Bobbowski", U.S. Patent No. 5,062,181). Wood discloses the stop portion to be machined, which includes trimming, as previously discussed in this Office Action. However,

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Wood does not expressly disclose the trimming of the stop portion to comprise punching the stop on the intermediate member.

28. Bobbowski teaches a hinge arrangement that includes cutouts that are formed in the pivot portions by milling, machining, punching, or the like (column 6, lines 3-4). It is seen then, that machining and punching are equivalent processes in the art to arrive at the same final product. It would have been obvious to one having ordinary skill in the art at the time of the invention to form, or trim, the stop portions of Wood by punching, or machining, as these processes are equivalent in the art and interchangeable. Either process may be used to create the same final product.

Conclusion

29. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following references are cited to further show the state of the art with respect to automobile hinges, or hinges with stops: Burns et al, Sanders, Calcaterra et al, and Jacquin.

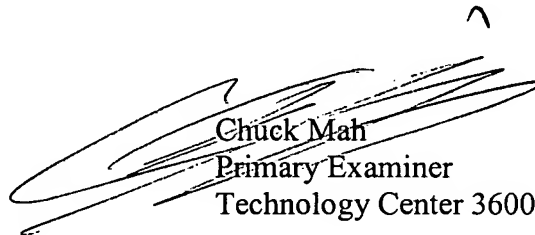
30. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael J Kyle whose telephone number is 703-305-3614. The examiner can normally be reached on Monday - Friday, 8:30 am - 5:00 pm.

31. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Judy Swann can be reached on 703-306-4115. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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32. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

mk


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